

After reviewing the record and considering the arguments, the Appeals Board concludes that the Order by the Administrative Law Judge should be affirmed. Claimant

alleges she suffered a back injury or injuries in the course of her employment for respondent. The Order by the Administrative Law Judge sets out in detail the numerous inconsistencies in claimant's testimony. The Order also describes the testimony of several other witnesses who testify in direct contradiction to testimony by the claimant both as to the accident and as to the notice. Based upon our review of the record, the Appeals Board finds the claimant did not establish by a preponderance of the credible evidence that either she suffered an accidental injury arising out of and in the course of her employment or that she gave timely notice as required by K.S.A. 44-520.

Claimant argues the Administrative Law Judge overlooked testimony of Ronald Ingram and the medical records of Jonathan L. Roberts, D.C., in Exhibit 1 to the preliminary hearing transcript. According to claimant, this evidence establishes that respondent had notice within 10 days of an accident in September 1996. From our view, it does not appear either that the Administrative Law Judge overlooked this evidence or that she establishes the required notice. Ronald Ingram's testimony is discussed in some detail in the Order by the Administrative Law Judge. Mr. Ingram acknowledged that on October 8, 1996, claimant advised him she wished to make a workers compensation claim but did not indicate the date of accident. Claimant argues that the records from Dr. Roberts suggest that the accident would have occurred on September 30, within ten-days of the notice given. Claimant also asserts that these records suggest September 30 was the last day claimant worked. Dr. Roberts records do reflect that he saw claimant on October 1, 1996, with a history of an accident at work. The history does not, however, give a date of accident. The records give various dates as the last date worked including September 25 and September 27. Dr. Roberts' indicates that claimant has been off since September 25. In addition, the record contains an application for family medical leave dated September 24, 1996, in which she requested family medical leave because of a problem with her lower back. These records contradict this assertion that an accident occurred on September 30, 1996. In addition, as the Administrative Law Judge points out, if the accident occurred on the last date worked, claimant would likely have been able to identify the accident date when she visited with Mr. Ingram on October 8, 1996.

The Appeals Board therefore agrees with and affirms the conclusion by the Administrative Law Judge that benefits should be denied for the reasons stated in the findings of the Administrative Law Judge which are hereby approved and adopted by the Appeals Board as its own.

**WHEREFORE**, the Appeals Board finds that the Order of Administrative Law Judge Bruce E. Moore, dated March 17, 1997, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1997.

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BOARD MEMBER

c: David H. Farris, Wichita, KS  
Jeffrey E. King, Salina, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director